

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4423 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
Nos. 1 to 5 No.

PRAVINSINH BABUBHA JADEJA

Versus

DISTRICT MAGISTRATE

Appearance:

MR ANIL S DAVE for Petitioner

MR.NEEGAM SHUKLA,AGP for Respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 06/11/96

ORAL JUDGEMENT

This Special Civil Application is directed against the detention order dated 2.5.1996 passed by the District Magistrate, Kachchh-Bhuj detaining the petitioner under the provisions of Gujarat Prevention of Antisocial Activities Act, 1985. The detention order was executed on 5.5.1996 and since then the petitioner is

under detention lodged at Sabarmati Central Jail, Ahmedabad.

This Special Civil Applicatin was filed on 27.6.1996 and on 28.6.1996 Rule returnable was issued but sofar neither any reply has been filed nor any affidavit of the Detaining Authority has been filed.

The grounds of detention enclosed with the detention order show that 8 criminal cases under the Prohibition Act has been registered against the petitioner. The Detaining Authority has also taken into consideration the statements made by five witnesses against the petitioner's antisocial activities and the Detaining Authority found that the petitioner was engaged in an unauthorised absence of liquor and was a bootlegger.

In view of the reasons in the judgment and order dated 4.10.1996 in Special Civi Application No. 3879 of 1996 the allegation and material relied upon by the Detaining Authority against the petitioner do not constitute the case of breach of public order and at the most it can be said to be a case of law and order. The detention order deserves to be set aside on this ground alone.

Accordingly this Special Civil Application is allowed. The impugned detention order dated 2.5.1996 passed by the District Magistrate, Kachchh-Bhuj is hereby quashed and set aside and the petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith if not required in any other case. Rule is made absolute.
